

THOMAS E. FRANKOVICH (State Bar No. 074414)  
THOMAS E. FRANKOVICH,  
A Professional Law Corporation  
4328 Redwood Hwy., Suite 300  
San Rafael, CA 94903  
Telephone: 415/674-8600  
Facsimile: 415/674-9900

Attorneys for Plaintiffs  
DAREN HEATHERLY and IRMA RAMIREZ

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DAREN HEATHERLY and IRMA RAMIREZ,  
Plaintiffs,

v.

MARISCO'S LA JAIBA; XU TRUONG and  
AHN HOANG, TRUSTEES OF THE  
TRUONG/HOANG FAMILY TRUST, U.D.T.  
dated March 18, 1997; and MIGUEL PELAYO  
MONTIEL, an individual dba MARISCO'S LA  
JAIBA,

Defendants.

Case No.: CV 11-1069 MEJ

Unlimited Civil Matter

**STIPULATION EXTENDING TIME FOR  
DEFENDANT XU TRUONG and ANH  
HOANG, TRUSTEES OF THE  
TRUONG/HOANG FAMILY TRUST TO  
RESPOND TO PLAINTIFFS'  
COMPLAINT AND EXTENDING DATES  
IN SCHEDULING ORDER; AND  
~~PROPOSED~~ ORDER THEREON**

Plaintiffs DARREN HEATHERLY AND IRMA RAMIREZ (hereinafter "Plaintiffs") and  
Defendants MARISCO'S LA JAIBA (hereinafter "Marisco's"); XU TRUONG and ANH HOANG  
(erroneously sued herein as AHN HOANG), TRUSTEES OF THE TRUONG/HOANG FAMILY  
TRUST, U.D.T. dated March 18, 1997 (hereinafter "Truong"); and MIGUEL PELAYO MONTIEL,  
an individual dba MARISCO'S LA JAIBA (hereinafter "Montiel"), by and through their respective  
counsel, respectfully request to make the following stipulation:

1. WHEREAS, all Defendants have been served with the Summons and Complaint; and
2. WHEREAS, Defendants Marisco's and Montiel have filed an Answer to the  
Complaint; and

1           3.       WHEREAS, Defendant Truong was given an initial extension of time to respond to  
2 the Complaint up to and including June 7, 2011; and

3           4.       WHEREAS, Defendant Truong has requested additional time to respond to the  
4 Complaint and Defendants have requested to extend the dates in the Scheduling Order; and

5           5.       WHEREAS, Counsel for Defendant Truong has had a recent death in her family  
6 which will require her time and attention; and

7           6.       WHEREAS, Counsel for Defendants Marisco's and Montiel is caring for his wife who  
8 recently sustained a significant injury from a fall and underwent surgery; and

9           7.       WHEREAS, pursuant to the Scheduling Order, General Order 56 and F.R.C.P. Rule  
10 26, the parties are to complete initial disclosures by June 8, 2011 and hold a joint inspection of the  
11 premises by June 15, 2011; and

12           8.       WHEREAS, the parties have agreed to extend for 30 days the time for Defendant  
13 Truong to respond to the Complaint and the dates to complete initial disclosures and to hold a joint  
14 inspection at the premises; and

15           9.       WHEREAS, the parties agree that Defendant Truong will have up to and including  
16 July 7, 2011 to respond to the Complaint; and

17           10.      WHEREAS, the parties agree to complete initial disclosures by July 8, 2011 and hold  
18 a joint inspection of the premises by July 15, 2011; and

19           11.      WHEREAS, the parties agree that the dates in the Scheduling Order for the parties to  
20 meet and confer in person to discuss settlement, and for Plaintiff to file "Notice of Need for  
21 Mediation" will be calculated based on the new date of July 15, 2011 for the joint inspection of the  
22 premises. Accordingly, the parties agree the last day to meet and confer in person to discuss  
23 settlement is July 25, 2011 and the last day for Plaintiffs to file "Notice of Need for Mediation" is  
24 August 29, 2011; and

25           12.      WHEREAS, the parties are actively attempting to negotiate a settlement in the above-  
26 referenced case, and wish to reduce fees, costs and litigation expenses in doing so; and  
27  
28

1           13.     WHEREAS, the parties believe it would be in the interests of efficiency and economy  
2 to extend the time for Defendant Truong to respond to Plaintiffs' Complaint and to extend the dates in  
3 the Scheduling Order; and to allow time to negotiate an agreement; and

4           14.     WHEREAS, Plaintiffs have agreed to grant additional time for Defendant Truong to  
5 respond to Plaintiffs' Complaint and the parties have agreed to extend the dates in the Scheduling  
6 Order issued by the Court.

7           IT IS STIPULATED that:

8           1.     Defendant Truong will have up to and including July 7, 2011 to respond to the  
9 Complaint; and

10          2.     The parties will complete initial disclosures by July 8, 2011 and hold a joint inspection  
11 of the premises by July 15, 2011; and

12          3.     The last day for the parties to meet and confer in person to discuss settlement is  
13 July 25, 2011, and the last day for Plaintiffs to file "Notice of Need for Mediation" is August 29,  
14 2011.

15 DATED: June 3, 2011

THOMAS E. FRANKOVICH,  
A Professional Law Corporation  
Attorneys for Plaintiffs  
DAREN HEATHERLY and IRMA RAMIREZ

18 By: /s/ Thomas E. Frankovich  
Thomas E. Frankovich

19 DATED: June 3, 2011

AARON & WILSON, LLP  
Attorneys for Defendants  
MARISCO'S LA JAIBA; MIGUEL PELAYO  
MONTIEL, an individual dba MARISCO'S LA  
JAIBA

23 By: /s/ Robert S. Aaron  
Robert S. Aaron

24 DATED: June 3, 2011

HATCHER & RUNDEL  
Attorneys for Defendants  
MARISCO'S LA JAIBA; MIGUEL PELAYO  
MONTIEL, an individual dba MARISCO'S LA  
JAIBA

28 By: /s/ William W. Hatcher, Jr.  
William W. Hatcher, Jr.

1 DATED: June 3, 2011

2 SPAULDING McCULLOUGH & TANSIL LLP  
3 Attorneys for Defendants  
4 XU TRUONG and ANH HOANG, Trustees of the  
5 TRUONG/HOANG FAMILY TRUST, U.D.T. dated  
6 March 18, 1997 (erroneously sued herein as AHN  
7 HOANG)

8 By: /s/ Mary P. Derner  
9 Mary P. Derner

10 **ORDER**

11 IT IS SO ORDERED that Defendant Truong will have up to and including July 7, 2011 to  
12 respond to the Complaint.

13 IT IS FURTHER ORDERED that the parties will complete initial disclosures by July 8, 2011  
14 and hold a joint inspection of the premises by July 15, 2011.

15 IT IS FURTHER ORDERED that the last day for the parties to meet and confer in person to  
16 discuss settlement is July 25, 2011, and the last day for Plaintiffs to file "Notice of Need for  
17 Mediation" is August 29, 2011.

18 Dated: June 6, 2011

19   
20 THE HONORABLE MARIA-ELENA JAMES  
21 United States Magistrate Judge  
22  
23  
24  
25  
26  
27  
28